

## STATEMENT OF PROPOSAL

### AMENDMENT OF THE AUCKLAND TRANSPORT ELECTION SIGNS BYLAW 2013

## Summary

### Statutory requirements

1. On 30 May 2013 Auckland Transport, as road controlling authority for Auckland, made the Auckland Transport Election Signs Bylaw 2013 under section 22AB(1) of the Land Transport Act 1998. To amend the bylaw Auckland Transport is required to consult with the persons specified in section 22AD(2) of the Land Transport Act 1998.
2. Auckland Transport has given notice in writing to these persons of its proposal to amend clause 7(1) of the bylaw (and the explanatory note) and will allow three days to make submissions to the proposal.
3. Section 3B of the Electoral Act 1993 enables to the placing of election signs in a "regulated period" from the day that is three months before the polling day. The regulated period for the upcoming local government elections in October 2013 commences on 10 August 2013, from which date candidates may place election signs on the approved public sites.
4. Provision is made in legislation for the content of election signs. Clause 8 of the Electoral (Advertisements of a Specified Kind) Regulations 2005 prescribes the lettering on election sign on any road controlled by the New Zealand Transport Agency. However, the legacy bylaws revoked by Auckland Transport on 30 May 2013 relating to election signs did not prescribe the font size that may be used on election signs and the restriction in clause 7(1)(r) had not been applied by bylaw in Auckland by any legacy council.

### Consultation

5. Before making the bylaw in May 2013, Auckland Transport consulted with the persons specified by section 22AD(2) of the Land Transport Act 1998. Written notice of the proposed amendment of the bylaw has been given to the same persons, including all persons who had made written submissions on the making of the bylaw, advising that written submissions on the proposed amendment may be made within three days. The proposed amendment deals with narrow issues, which can easily be commented on in a short period of time.
6. Auckland Transport regards the period of three days as acceptable due to the limited time available before election signs may be displayed for the impending local government elections. In addition, Auckland Transport has recently concluded the consultation process on the making of the bylaw, and the proposed amendments are very minor. They do not impose additional requirements on any person. The

proposed change in relation to letter size is a relaxation of the existing bylaw requirement), while the other proposed change (in relation to illumination of billboards) merely clarifies the existing bylaw.

### **Reasons for the proposal**

7. The reasons for the proposal are to remove unnecessarily restrictive and confusing requirements in the Auckland Transport Election Signs Bylaw 2013 relating to the permitted size of lettering on election signs, to clarify that election signs on commercial bill boards may continue to be illuminated. The proposal also includes an amendment of the explanatory note on the title page, although since the title page is not part of the bylaw this would be capable of amendment by ordinary resolution.
8. The two substantive amendments, together, are urgent as the current requirements affect the ability of candidates in the forthcoming October local government elections to place compliant election signs on sites identified by Auckland Transport. Election signs may be placed on public sites from 10 August 2013.

### **Current situation**

9. The requirements relating to font (letter) sizes in the current bylaw are new to Auckland. Auckland Transport has received numerous complaints from candidates that the requirements are too onerous as the requirements prevent candidates from providing adequate information on the election signs. The size of the signs is restricted three metres<sup>2</sup>, and prescribing a required font size affects the information that may be placed on the election signs. In addition, the requirements relating to the location of different permitted lettering sizes on different categories of road are confusing and may lead to unintended breaches of the bylaw.
10. On 17 July 2013 the Transport Control Committee of Auckland Transport resolved to make a control under clause 8(1) of the bylaw to clarify the size of lettering in clause 7(1)(r) of the bylaw by approving varying sizes of lettering that may be used for arterial and non-arterial roads in the Auckland transport system. This measure has not had the desired effect of alleviating the unnecessary and onerous requirements, and is to be revoked.
11. Pursuant to clause 7(1)(c) of the bylaw, election signs larger than three metres<sup>2</sup> may be placed on commercial billboards. A commercial billboard is defined in the bylaw as a permanently erected structure available for hire or reward that is designed and used for the display of advertisements and includes a large passenger vehicle so used. The illumination of commercial billboards is a normal part of commercial use and is regulated in Auckland through bylaws or district plans. Clauses 7(1)(k) and (l) prohibit the illumination of election signs, without exemption of election signs displayed on commercial billboards. The proposed amendment to these clauses would create such an exemption.
12. The explanatory note on the title page of the bylaw is misleading as it incorrectly states that the purpose of the bylaw is to make bylaws. This should be clarified.

## Option analysis

13. Auckland Transport has the following options:

### ***Option 1: Retain the status quo (“do nothing”)***

14. This option recognises that all the candidates have known about the requirements since the making of the bylaw, and some candidates may have developed signs that meet the letter size requirements. This option avoids the costs and administrative burden (for the Council, AT and those submitting on the proposal) associated with amending the bylaw under option 2.

15. This option may be preferred by some candidates who have complied with the existing requirements, and feel other candidates should be required to do the same. They may see any expense they have already incurred in order to make their signs compliant with the current requirements as "wasted" expenditure if the bylaw is amended as now proposed. However, the restriction on letter size applies to election signs on roads under the control of the New Zealand Transport Agency (NZTA) under the Electoral (Advertisements of a Specified Kind) Regulations 2005. Accordingly, candidates who have changed their signs may still benefit from being able to use their signs adjacent to NZTA roads.

16. The disadvantage of the option is the ongoing confusion and inability to meet the requirements that affect candidates for the upcoming local government election. This option will also not allow for the ongoing illumination of commercial billboards that contain election signs. This may unnecessarily restrict the use of commercial billboards for election purposes.

### ***Option 2: Amend the bylaw and revoke the control***

17. Clarifying that election signs on commercial billboards may continue to be illuminated avoids confusion. The illumination of commercial billboards for election signs is subject to other regulatory measures.

18. Amending the bylaw to remove the lettering size restrictions in clause 7(1)(r), and revoking the control discussed earlier, removes unnecessarily restrictive and onerous requirements. The content of election signs are adequately regulated by legislation. No legacy council in Auckland had required a similar restriction and the measure is untested in Auckland outside the NZTA context. The bylaw clause and the subsequent control are also unclear and cause confusion. The costs of enforcement of the requirement outweigh the benefit.

19. A perceived disadvantage of this option is that some candidates may already have developed signs in compliance with the requirements, which under the proposal will be removed. However, as noted above their modified signs will comply with the

Electoral (Advertisements of a Specified Kind) Regulations 2005 which is relevant to NZTA controlled roads, so to that extent their expenditure will not be "wasted". Already modified signs will still comply the Auckland Transport bylaw if amended as proposed.

## **Proposal**

20. Auckland Transport proposes the amendment of the explanatory note on the title page as provided for in the attached Auckland Council Election Signs Amendment Bylaw No 1 of 2013.
21. Auckland Transport proposes the inclusion in clauses 7(1)(k) and (l) of the Auckland Transport Election Signs Bylaw 2013 of an exemption for election signs displayed on billboards that allows for the ongoing illumination of commercial billboards containing election signs as provided for in the attached Auckland Council Election Signs Amendment Bylaw No 1 of 2013.
22. Auckland Transport proposes the revocation of clause 7(1)(r) of the Auckland Transport Election Signs Bylaw 2013 as provided for in the attached Auckland Council Election Signs Amendment Bylaw No 1 of 2013, and the revocation of the control made by its Transport Control Committee on 17 July 2013 entitled "Approving alternate font sizes for particular sites" (Report ID11286).